

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

HAWAIIAN BEACHES)
WATER COMPANY, INC.)

DOCKET NO. 2009-0161

For Review and Approval of Rate)
Increases; and Revised Rate)
Schedules.)
_____)

PROPOSED DECISION AND ORDER

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COMMISSION

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PROPOSED DECISION AND ORDER

The commission issues this Proposed Decision and Order in accordance with Hawaii Revised Statutes ("HRS") § 269-16(f) and in response to the application of HAWAIIAN BEACHES WATER COMPANY, INC. ("HBWC" or "Applicant"), filed on July 17, 2009.¹

By this Proposed Decision and Order, the commission approves an increase of \$230,496 or approximately 36.065%, over revenues at present rates for services rendered by HBWC, based on a total revenue requirement of \$869,616 for the January 1, 2010, through December 31, 2010 test year ("Test Year"). In doing so, the commission also approves in part and rejects in part, the Parties' Stipulation of Settlement Agreement in Lieu of Rebuttal

¹On July 17, 2009, HBWC filed its Application; Exhibits HBWC 1 - HBWC 13; HBWC-T-100 (Testimony of Robert L. O'Brien); Workpapers; Verification; and Certificate of Service (collectively, "Application"). Copies of the Application were served on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this proceeding pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62. HBWC and the Consumer Advocate, the sole parties to this proceeding, are hereafter collectively referred to as the "Parties."

Testimonies, filed on November 23, 2009 ("Stipulation"), as described herein.

I.

Background

A.

HBWC

HBWC is a Hawaii corporation and a public utility as defined by HRS § 269-1 and, thus, is regulated by the commission under Chapter 269, HRS. HBWC, the successor-in-interest to Miller & Lieb Water Company, Inc. ("Miller and Lieb"),² holds a certificate of public convenience and necessity to operate as a public utility within the Hawaiian Beaches Subdivision located in Pahoa, Puna District of the island of Hawaii.³

Currently, HBWC provides service to its customers through rates approved by the commission in Proposed Decision and Order No. 23423, filed May 8, 2007, in Docket No. 2006-0442, which was adopted by Decision and Order No. 23469, filed on May 31, 2007, in the same docket ("Docket No. 2006-0442").⁴ As part of its current rates, HBWC charges its residential (single

²In a proceeding in 2006, the commission, among other things, conditionally approved the joint application filed by Miller & Lieb and HBWC to sell and transfer Miller & Lieb's utility assets and operations to HBWC. See In re Miller and Lieb Water Company, Inc. and Hawaiian Beaches Water Company, Inc., Docket No. 2006-0437, Decision and Order No. 23313, filed on March 21, 2007 ("Decision and Order No. 23313").

³See Decision and Order No. 23313 at 29.

⁴See also Decision and Order No. 23513, filed on June 27, 2009, in Docket No. 2006-0442.

family and condominium) customers a recurring fixed monthly Water Service Charge of \$48.06.⁵ HBWC does not currently have an authorized recurring usage (or volumetric) charge.

B.

HBWC's Application

On July 17, 2009, HBWC filed its Application for commission approval of, among other things, a general rate increase seeking additional revenues of \$310,302, or an approximate 48.6% increase over total revenues at present rates for the Test Year. The requested increase is based on an estimated total revenue requirement of \$949,434 for the Test Year, and a proposed rate of return of 9%.

Through its Application, HBWC seeks to convert its rate structure from a wholly fixed monthly Water Service Charge of \$48.06 per residential customer to a structure that also includes a monthly Water Usage Charge. Specifically, HBWC is proposing to change the recurring charges in its rate structure as follows:

⁵Among other things, HBWC is also authorized to charge its customers a host of non-recurring charges as follows: (1) New Water Service Connection Charge of \$1,500 per connection; (2) Voluntary Disconnect and Reconnection Charge of \$260.00 per request; (3) Involuntary Disconnect and Reconnection Charge of \$60.00 per instance; and (4) Return Check Fee of \$30.00 plus bank charge to HBWC.

	Present Rates	Proposed Rates	Percentage Increase
Recurring Charges:			
Monthly Water Service Charge (per unit)	\$48.06	\$30.00	-37.6%
Monthly Water Usage Charge (per 1,000 gallons)	none	\$5.7818	n/a

According to HBWC, its "current rates do not now and will not in the foreseeable future produce sufficient revenues to allow it to recover its prudently incurred expenses and earn a fair return on its prudently incurred investments."⁶ At present rates, HBWC projects a Test Year "operating loss of \$73,945, and a negative 5.24% rate of return on an average rate base of \$1,410,016."⁷ HBWC represents that its Application is designed to eliminate the current ongoing losses and allow HBWC to earn a fair return on its prudently incurred costs for utility assets.

In addition, HBWC requests, pursuant to HAR § 6-61-92, that its unaudited financial statements, submitted with its Application, be accepted in lieu of audited financial statements required under HAR § 6-61-75 ("Waiver Request").

On August 6, 2009, the Consumer Advocate timely filed its Preliminary Statement of Position Regarding Completeness of Application ("Statement of Completeness"), stating that it does not object to the completeness of HBWC's Application.⁸ On

⁶See Application at 5.

⁷Id.

⁸See Statement of Completeness at 4.

August 24, 2009, the commission issued its Order Regarding Completed Application and Other Initial Matters acknowledging that the filing date of HBWC's complete Application is July 17, 2009, and approving HBWC's Waiver Request. Moreover, the commission required the Parties to begin discovery without delay, and submit a proposed stipulated procedural order (or proposed orders) within seven days following the deadline for the filing of any motions to intervene or participate without intervention, if no such motions were filed.

C.

Public Hearing Process

In accordance with HRS §§ 1-28.5 and 269-16(c), as revised, the commission published its Notice of Public Hearing in the Hawaii-Tribune Herald and West Hawaii Today on the island of Hawaii.⁹ By letter dated September 14, 2009, HBWC informed the commission that it notified its customers of its rate relief request and the upcoming public hearing through a customer notice mailed on September 2, 2009.

On September 21, 2009, the commission held a public hearing regarding HBWC's Application, at Keonepoko Elementary School Cafeteria (15-890 Kahakai Boulevard in Pahoa, on the island of Hawaii), consistent with the requirements of HRS §§ 269-12(c) and 269-16(f) ("Public Hearing"). At the Public Hearing, HBWC's representative and the Consumer Advocate orally testified and submitted written comments. Numerous ratepayers

⁹Specifically, the Notice of Public Hearing was published on August 31 and September 14 and 20, 2009.

and members of the general public also provided oral testimonies and, in some cases, provided written comments for the record. HBWC's representative was given an opportunity to provide a rebuttal to the questions and concerns posed by the public.¹⁰ Oral testimonies and comments presented during the Public Hearing were transcribed and filed with the commission on October 13, 2009.

D.

Issues

The issues raised in this proceeding as set forth in the Stipulated Procedural Order,¹¹ are as follows:

1. Are HBWC's proposed rate increases reasonable?
 - a. Are the proposed tariffs, rates, and charges just and reasonable?
 - b. Are the revenue forecasts for the Test Year at present rates and proposed rates reasonable?
 - c. Are the projected operating expenses for the Test Year reasonable?

¹⁰In general, those who provided oral testimonies and submitted written comments opposed HBWC's proposed rate increase, the magnitude of the increase, or the proposal to establish volumetric rates.

¹¹On October 8, 2009, the Parties filed their proposed Stipulated Procedural Order setting forth their proposed issues and a regulatory schedule to govern the proceedings in this docket. On October 26, 2009, the commission issued, without modification, the Stipulated Procedural Order.

- d. Is the projected rate base for the Test Year reasonable, and are the properties included in the rate base used or useful for public utility purposes?
- e. Is the rate of return requested fair?

E.

Parties' Stipulation

On October 27, 2009, the Consumer Advocate filed its Direct Testimony, Exhibits, and Workpapers (collectively, "Consumer Advocate's Direct Testimony") setting forth its positions and recommendations regarding the issues in this docket.

By letter dated and filed on November 2, 2009, HBWC informed the commission that it elected not to issue information requests with respect to the Consumer Advocate's Direct Testimony in order to allow the Parties to focus their attention on resolving disputed issues. In addition, HBWC informed the commission of the Parties' agreement to temporarily suspend the remaining discovery-related procedural deadlines to facilitate their discussions. In response, the commission issued a letter dated November 10, 2009, approving the Parties' agreement to temporarily suspend the remaining discovery-related procedural deadlines. The commission, however, noted that the deadline of November 23, 2009 for the Parties to file their settlement agreement, if any, remained unchanged.

On November 23, 2009, the Parties filed their Stipulation "to formally memorialize their proposed resolution of all issues in the subject docket[.]"¹² The Stipulation, which both the Parties, purports to reflect the Parties' final agreement on all the issues in this proceeding. In achieving their settlement, the Parties state, among other things, that "it is understood and agreed that the agreements evidenced in this Stipulation represent the Parties' agreement to fully and finally resolve all issues in the subject docket on which they previously had differences[.]"¹³ In addition, the Parties state the following:

Each provision of this Stipulation is in consideration and support of all other provisions, and is expressly conditioned upon acceptance by the Commission of the matters expressed in this Stipulation in their entirety. In the event the Commission declines to adopt parts or all of the matters agreed to by the Parties and as set forth in this Stipulation, the Parties reserve the right to pursue any and all of their respective positions through further negotiations and/or additional filings and proceedings before the Commission.¹⁴

Furthermore, the Parties expressly state that they "understand and acknowledge that the Commission is not bound by this Stipulation between the Parties, and that this Stipulation is subject to the review and approval of the Commission."¹⁵

¹²See Stipulation at 1.

¹³Id. at 7.

¹⁴Id. at 45.

¹⁵Id. at 2.

With regards to the above, the commission has stated in past rate case proceedings that "an agreement between the parties in a rate case cannot bind the commission, as the commission has an independent obligation to set fair and just rates and arrive at its own conclusion."¹⁶ The commission's review of the Parties' Stipulation will be conducted under this mandate.

II.

Discussion

HBWC, a public utility with annual gross revenues of less than \$2 million, filed its Application under HRS § 269-16(f). This section of the law streamlines the rate review process for small public utilities such as HBWC. In short, it requires the commission to make every effort to issue its Proposed Decision and Order within six months from the filing date of HBWC's complete Application, "provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene." HRS § 269-16(f)(3).

Specifically, section 269-16(f) states, in relevant part:

Notwithstanding any law to the contrary, for public utilities having annual gross revenues of less than \$2,000,000, the commission may make and

¹⁶See In re Pukalani STP Co., LTD., Docket No. 05-0025, Proposed Decision and Order No. 22015, filed on September 7, 2005, at 12 citing In re Hawaiian Electric Co., Inc., 5 Haw. App. 445, 698 P.2d 304 (1985). See also In re Hawaii Water Service Company, Inc., Docket No. 03-0275, Decision and Order No. 21644, filed on February 11, 2005, at 10.

amend its rules and procedures to provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers. In the determination of the reasonableness of the proposed rates, the commission shall:

. . . .

(2) Hold a public hearing as prescribed in section 269-12(c) at which the consumers or patrons of the public utility may present testimony to the commission concerning the increase. The public hearing shall be preceded by proper notice, as prescribed in section 269-12; and

(3) Make every effort to complete its deliberations and issue a proposed decision and order within six months from the date the public utility files a completed application with the commission; provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene. If a proposed decision and order is rendered after the six-month period, the commission shall report in writing the reasons therefor to the legislature within thirty days after rendering the proposed decision and order. Prior to the issuance of the commission's proposed decision and order, the parties shall not be entitled to a contested case hearing.

If all parties to the proceeding accept the proposed decision and order, the parties shall not be entitled to a contested case hearing, and section 269-15.5 shall not apply. If the commission permits a person to intervene, the six-month period shall not apply and the commission shall make

every effort to complete its deliberations and issue its decision within the nine-month period from the date the public utility's completed application was filed, pursuant to subsections (b), (c), and (d).

If a party does not accept the proposed decision and order, either in whole or in part, that party shall give notice of its objection or nonacceptance within the timeframe prescribed by the commission in the proposed decision and order, setting forth the basis for its objection or nonacceptance; provided that the proposed decision and order shall have no force or effect pending the commission's final decision. If notice is filed, the above six-month period shall not apply and the commission shall make every effort to complete its deliberations and issue its decision within the nine-month period from the date the public utility's completed application was filed as set forth in subsection (d). Any party that does not accept the proposed decision and order under this paragraph shall be entitled to a contested case hearing; provided that the parties to the proceeding may waive the contested case hearing.

Public utilities subject to this subsection shall follow the standard chart of accounts to be approved by the commission for financial reporting purposes. The public utilities shall file a certified copy of the annual financial statements in addition to an updated chart of accounts used to maintain their financial records with the commission and consumer advocate within ninety days from the end of each calendar or fiscal year, as applicable, unless this timeframe is extended by the commission. The owner, officer, general partner, or authorized agent of the utility shall certify that the reports were

prepared in accordance with the standard chart of accounts.

The commission timely issues this Proposed Decision and Order in accordance with HRS § 269-16(f).

A.

Summary of Stipulation

The Parties' stipulate to a revenue requirement for HBWC of \$869,616 for the Test Year based on a stipulated 8.3% rate of return on HBWC's stipulated average Test Year rate base of \$1,333,595.¹⁷ These stipulated figures reflect a revenue increase of \$230,496,¹⁸ or approximately 36.065%, over revenues at present rates. According to the Parties, the Stipulation allows HBWC to record reasonable expenses and earn a return of 8.3% on its investment. In addition, the Parties agreed on a rate design comprised of a fixed Monthly Water Service Charge of \$30.00 per unit and a monthly Water Usage Charge of \$4.2237 per 1,000 gallons ("TGs") of water used. The agreed upon usage charge is approximately \$1.5581 less than HBWC's initial

¹⁷Differences in the figures between those set forth in the Parties' Stipulation and this Proposed Decision and Order, including Exhibits A and B, attached, are due to the rounding of the numbers.

¹⁸With respect to the revenue increase, the narrative of the Parties' Stipulation refers to \$230,502 as the stipulated amount. However, the Parties' supporting document refers to an amount of \$230,496 (see Exhibit HBWC-A at 1). According to the Parties, the differences are due to rounding differences in the methods of calculating and reconciling certain operating revenue numbers (see Stipulation at 8 n.8). For consistency, the commission will refer to \$230,496 as the stipulated amount for additional revenues. Among other things, this figure is consistent with the commission's calculations as set forth in the attached Exhibit A.

proposed rate of \$5.7818 per TGs used, as described in its Application.

B.

Operating Revenues

At present rates, HBWC estimated that its total revenues would be \$639,132 and initially sought a Test Year revenue requirement of \$949,434, at proposed rates. In addition, HBWC projected a count of 1,105 customers at December 31, 2010, with an average customer count of 1,103 for the Test Year.

The Consumer Advocate, in its Direct Testimony, recommended a Test Year revenue requirement, at present and proposed rates, of \$639,120 and \$855,084, respectively.¹⁹ While stating that HBWC's customer count for the Test Year appeared reasonable, the Consumer Advocate expressed concern regarding HBWC's calculation of water usage per month. HBWC's forecasted monthly water usage for the Test Year is approximately 7,918,000 gallons based on the actual water usage for each of its customers for the months March 2009 through July 2009. Expressing concern with utilizing only four months of water data, the Consumer Advocate recommended using the most recent twelve-month meter readings from October 2008 through September 2009 to determine the average monthly water consumption for each customer. Specifically, the Consumer Advocate stated that utilization of only four months of water data "does not take

¹⁹See Consumer Advocate's Direct Testimony, CA-101.

into account seasonal changes as it relates to rain levels"²⁰ and contended that utilizing readings from October 2008 through September 2009 would account for different rain levels throughout a year's time and recent customer repairs to leaks. Thus, the Consumer Advocate recommended Test Year water consumption of approximately 9,722,300 gallons per month.

During negotiations, HBWC disagreed with the Consumer Advocate's use of 9,722,300 gallons per month for Test Year water consumption arguing that the Consumer Advocate's calculation: "(1) overstated actual current usage for several customers who have taken action in recent months to substantially reduce their water usage; (2) did not recognize the fact that many customers have acknowledged leaks in their service lines which are causing excess water usage, but have stated they do not intend to repair these leaks until the volumetric rates based on water usage become effective; and (3) did not take into account the reduced usage that will likely occur from conservation efforts by customers as a result of the implementation of volumetric rates and the increase in customers' monthly bills from the imposition of use-based charges."²¹ Based on additional information, provided by HBWC, supporting reduction of the Consumer Advocate's usage projection related to certain specific high usage customers, detailed on pages 13-14 of the Stipulation, the Consumer Advocate accepted a customer monthly water usage amount of 9,264,100 gallons per month for the Test Year.

²⁰Id. at 9.

²¹See Stipulation at 13.

Although believing that overall water usage will continue to trend lower, HBWC agreed to accept 9,264,100 gallons per month as the Test Year average monthly customer water usage amount.

Based on the Parties' stipulated projected customer count, the Parties agreed to a total Test Year revenue amount at present rates of \$639,120. In addition, they agreed to average monthly water usage of 9,264,100 gallons per month for the Test Year.

Given the above, the commission finds the Parties' agreement on operating revenues of \$639,120 at present rates for the Test Year, as set forth in the Stipulation,²² to be reasonable.

C.

Operating Expenses

HBWC's operating expenses consist of the following categories: (1) operating and maintenance ("O&M") expenses; (2) taxes; (3) depreciation; and (4) amortization of contributions-in-aid-of-construction ("CIAC").

1.

O&M Expenses

In its Application, HBWC initially proposed total O&M expenses for the Test Year of \$584,627. Aside from three cost categories, the Consumer Advocate "did not object nor recommend any adjustments" to a majority of HBWC's proposed O&M

²²See Stipulation, Exhibit HBWC-A at 1.

expenses for the Test Year. The O&M expense categories that the Consumer Advocate objected to, which are discussed in detail below, were for: (1) salaries and wages, and related payroll taxes and benefits (which are discussed concurrently); and (2) rate case amortization. With adjustments to these expense items, the Consumer Advocate proposed total O&M expenses for the Test Year of \$552,858.²³ During settlement discussions, HBWC agreed to the Consumer Advocate's adjustments and the Parties ultimately stipulated to total O&M expenses of \$552,858 for the Test Year.²⁴

The following illustrates the Parties' agreements regarding O&M expenses for the Test Year.

O&M EXPENSE ITEMS	STIPULATED AMOUNTS
Purchased Electricity	\$104,400
Salaries and Wages	222,477
Employee Benefits & PR Taxes	57,377
Accounting	14,000
Insurance	31,604
Auto & Truck Expense	15,000
Postage	6,000
Legal & Professional	2,000
Communications	6,400
Office Supplies Expense	23,400
Rate Case Amortization	69,800
Repairs and Maintenance	4,400
Bad Debt Expense	-
Capitalized Non-Payroll Expense	<u>(4,000)</u>
Total O&M Expenses:	\$552,858

In its Direct Testimony, the Consumer Advocate noted that four expense categories (salaries and wages, related payroll taxes and employee benefits, purchased electricity, and rate case

²³See Consumer Advocate's Direct Testimony, CA-101.

²⁴See Stipulation, Exhibit HBWC-A at 1.

expense) represent 83.1% of HBWC's O&M expenses.²⁵ Of these expense items, the Consumer Advocate noted that HBWC's estimate for purchased electricity expense appears to have been calculated by using HBWC's average monthly kilowatt-hour (kWh) of "30,000 kWh for the well pump multiplied by the average kWh rate for the months of January through June 2009."²⁶ Upon review of this expense item, which included comparison of electricity usage for the months of July through September 2009, the Consumer Advocate stated that HBWC's estimate for purchased electricity expense "does not appear unreasonable."²⁷

However, with respect to salaries and wages, and related payroll taxes and benefits expenses for which HBWC proposed Test Year amounts of \$228,032 and \$57,391, respectively, the Consumer Advocate stated that while "employee compensations appear to be comparable, based on current economic conditions" allowing a pay increase in January 1, 2010, is not reasonable.²⁸ As a result, the Consumer Advocate recommended the disallowance of the January 1, 2010 pay increase while allowing the inclusion of the July 1, 2009 pay increase, since it represented the first increase in four years. For settlement purposes, HBWC agreed to "forego including the wage increase for January 1, 2010 and accepted the Consumer Advocate's proposed adjustment to salaries and wages and adjustment to payroll taxes associated with

²⁵See Consumer Advocate's Direct Testimony at 13.

²⁶Id. at 14.

²⁷Id. at 15.

²⁸Id. at 17.

disallowing the wage increase."²⁹ Thus, the Parties agreed to Test Year expense amounts for salaries and wages, and related payroll taxes and employee benefits of \$222,477 and \$57,377, respectively, totaling \$279,854.³⁰

With respect to rate case amortization expense, HBWC initially proposed a total rate case expense of \$192,000 to be amortized over a two-year period for a Test Year expense of \$96,000. In contrast, while the Consumer Advocate agreed to a two-year amortization period, it proposed a total rate case expense amount of \$139,600 arriving at an annual amortized amount of \$69,800.³¹ For this expense item, the Consumer Advocate proposed that: (1) the amount for the "Preparation and Filing" phase be reduced to \$64,600 to reflect the actual costs incurred for the phase; (2) costs associated with travel and other non-labor for the "Discovery and Settlement" phase be removed; and (3) costs associated with the "Hearings and Briefing" phase be removed.³² During settlement discussions, HBWC agreed to accept the Consumer Advocate's adjustments. As a result, the Parties stipulated to a Test Year expense amount for rate case amortization of \$69,800.³³

²⁹See Stipulation at 19.

³⁰Id.

³¹See Consumer Advocate's Direct Testimony at 22.

³²Id. at 19.

³³See Stipulation at 25.

In sum, the record established in this docket supports the Parties' stipulated O&M expense amounts.³⁴ Accordingly, the commission finds the Parties' stipulated amounts for O&M expenses for the Test Year, as set forth above, to be reasonable.

2.

Taxes

a.

Taxes Other Than Income Taxes ("TOTIT")

TOTIT is calculated by applying the 5.885% Public Service Company Tax rate and the 0.5% Public Utility Fee rate to the estimated total revenue requirement. In its Application, HBWC estimated TOTIT of \$40,809 for the Test Year at present rates and \$60,621 at proposed rates. However, due to differences in Test Year revenue requirement at proposed rates, the Consumer Advocate, in its Direct Testimony, proposed a TOTIT amount of \$54,597, at proposed rates.

During settlement negotiations, the Parties resolved their differences regarding all matters, including revenue requirement, and then stipulated to a TOTIT amount of \$55,525 at proposed rates for the Test Year.³⁵ The commission finds reasonable the Parties' stipulated TOTIT amount of \$55,525 for the Test Year.

³⁴Id. at 15-26. See also Stipulation, Exhibit HBWC-A at 1-9.

³⁵Id. at 27.

b.

Income Taxes

Similar to TOTIT, the Parties were in agreement regarding the methodology and rates for federal and state taxes to derive income tax expense for the Test Year. However, there were differences in this expense category due to differing revenue requirement estimates for the Test Year. As with TOTIT, based on the Stipulation resolving all differences between the Parties, they agreed to income taxes at proposed rates of \$52,500 for the Test Year.³⁶

The commission finds reasonable the Parties' stipulation of \$52,500 for income tax expense at proposed rates for the Test Year.

3.

Depreciation Expense

In its Application, HBWC proposed a Test Year depreciation expense of \$118,237. In contrast, the Consumer Advocate proposed a depreciation expense of \$100,810 reflecting its recommendation that the depreciation rate for the well portion of HBWC's plant described as Wells and Reservoirs & Tanks "(which totaled approximately \$697,055 in total cost) be adjusted from 0.05 (i.e., 20 years) to a rate of 0.0250 (i.e., 40 years) to reflect a longer estimated service life as originally estimated in Docket No. 2006-0442."³⁷ During

³⁶Id. at 28.

³⁷Id.

settlement discussions, the Parties agreed to "break out" the components of the Wells and Reservoirs & Tanks plant into five separate categories (i.e., Structures, Wells, Piping, Pumping Equipment, and Storage) and, as a result "agreed upon a Test Year amount for depreciation expense of \$110,623 . . . for the agreed-upon distribution of plant item components and the depreciation rates utilized for each component."³⁸

Upon review, the commission finds the Test Year stipulated depreciation expense amount of \$110,623 to be reasonable.

4.

Amortization of CIAC

HBWC, in its Application, proposed a Test Year expense amount for amortization of CIAC of (\$5,703), while the Consumer Advocate, in its Direct Testimony, proposed an expense amount of (\$12,573). According to the Parties, the difference was due to the Consumer Advocate's proposed adjustment to increase the CIAC amount to be deducted from rate base to include CIAC payments received since HBWC's last rate case, which HBWC incorrectly had classified as revenue. HBWC accepted the Consumer Advocate's adjustment to this expense item and, as a result, the Parties agreed to the Test Year expense amount for amortization of CIAC of (\$12,573).³⁹

³⁸Id. at 29 (footnote omitted).

³⁹Id.

The commission accepts as reasonable the Parties' stipulation for Test Year amortization of CIAC of (\$12,573).

D.

Rate Base

In general, HBWC's rate base is comprised of its "plant-in-service (i.e., plant-in-service minus accumulated depreciation), less accumulated deferred income taxes ("ADIT"), unamortized Hawaii Capital General Excise Tax Credit ("HCGETC"), customer deposits and CIAC, plus working cash."⁴⁰ In its Application, HBWC forecasted an average rate base for the Test Year of \$1,400,128. The Consumer Advocate, upon implementing various adjustments to certain rate base components arrived at a Test Year average rate base amount of \$1,339,813. Ultimately, the Parties stipulated to a Test Year average rate base amount of \$1,333,595 (see Stipulation, Exhibit HBWC-B at 1 for details) through negotiation of the rate base components as discussed below.⁴¹

1.

Net Plant-in-Service

Net plant-in-service is derived by subtracting accumulated depreciation from plant-in-service. In their Stipulation, the Parties agreed to an average Test Year net

⁴⁰Id. at 29 and 30.

⁴¹Id. at 30.

plant-in-service amount of \$1,501,579.⁴² For this proceeding, the commission accepts as reasonable the Parties' stipulated average net plant-in-service amount for the Test Year.

Specifically, with respect to plant-in-service, HBWC initially proposed an amount of \$1,894,848 for the Test Year. The Consumer Advocate stated that HBWC's plant-in-service "balance appears reasonable" and proposed no adjustments to this rate base item.

However, with regards to Test Year accumulated depreciation, HBWC initially proposed an average Test Year accumulated depreciation amount of \$400,883 while the Consumer Advocate proposed an amount of \$383,456. According to the Parties, the differences in their respective amounts were the result of the Consumer Advocate's proposed adjustments to HBWC's Test Year amount for depreciation expense. As noted above, the Parties stipulated to the adjusted Test Year depreciation expense amount, which the Consumer Advocate proposed. As a result, the Parties have agreed to an average Test Year accumulated depreciation amount of \$393,268.⁴³

In sum, the commission finds the Parties' stipulation for Test Year average plant-in-service and average accumulated depreciation of \$1,894,847 and \$393,268, respectively, to be reasonable. Accordingly, the commission also finds the Parties'

⁴²Any differences in figures between those set forth in the Parties' Stipulation and Exhibits A and B, attached, are due to rounding of the numbers.

⁴³See Stipulation at 31.

stipulated average net plant-in-service amount of \$1,501,579 for the Test Year to be reasonable.

2.

ADIT

"ADIT is the difference in income tax liability computed for financial statement purposes versus income tax return purposes."⁴⁴ According to the Consumer Advocate, "[i]n HBWC's case, ADIT is caused by applying different depreciation methods in determining the depreciation expense for tax versus financial statement purposes."⁴⁵ In its Application, HBWC sought an amount for average Test Year ADIT of \$27,104, while the Consumer Advocate proposed an average Test Year ADIT of \$24,585. The Parties state that the difference in their "respective amounts were the result of the Consumer Advocate's proposed adjustment to Applicant's Test Year expense amount for depreciation and a small difference in the effective composite income tax rate used in the calculation of the ADIT."⁴⁶ As noted above, the Parties agreed to an adjusted Test Year depreciation expense amount. Thus, consistent with their agreement regarding depreciation expense, the Parties agreed to an average Test Year ADIT amount of \$21,384, which is a deduction from the Test Year

⁴⁴See Stipulation at 33.

⁴⁵See Consumer Advocate's Direct Testimony at 28.

⁴⁶See Stipulation at 33.

average rate base.⁴⁷ The commission finds reasonable this stipulated amount for the Test Year.

3.

HCGETC

The HCGETC was enacted in 1987. Generally, this provision provides entities with a 4% tax credit for the purchase price or construction cost of qualifying plant and property used in a trade or business.⁴⁸

Initially, HBWC proposed an average Test Year HCGETC amount of \$20,944. In its Direct Testimony, the Consumer Advocate proposed an adjustment to HBWC's HCGETC amount to "recognize" the credit that should have been taken on plant (i.e., a well and tank) that was installed in 2009. According to the Consumer Advocate, HBWC failed to reflect a credit for these additions, nor did it provide an explanation as to why no credit should be taken. During settlement discussions, HBWC "acknowledged that in preparing its Application, it advertently failed to include the credit for these plant additions and accepted the Consumer Advocate's adjustment to the HCGETC amount."⁴⁹ In addition, the HCGETC was revised to reflect the depreciation rates that were agreed to in settlement. Accordingly, the Parties agreed to an average Test Year HCGETC amount of \$47,737, which is a deduction from the Test Year

⁴⁷Id. at 34.

⁴⁸See HRS § 235-110.7.

⁴⁹See Stipulation at 34.

average rate base.⁵⁰ Given the above, the commission finds reasonable this stipulated Test Year amount.

4.

Customer Deposits

In its Application, HBWC proposed an average Test Year customer deposit amount of \$11,462. The Consumer Advocate neither objected to nor recommended any adjustments to this amount in its Direct Testimony. As a result, the Parties stipulated to an average Test Year customer deposit amount of \$11,462, which is also a deduction from the Test Year average rate base.⁵¹ The commission finds the Parties' stipulated amount for average Test Year customer deposit to be reasonable.

5.

CIAC

CIAC are customer monetary or facility contributions to a company used to help defray the costs incurred to install plant, property, and equipment. HBWC initially proposed an average Test Year CIAC amount of \$73,158. The Consumer Advocate, in its Direct Testimony, proposed an average Test Year CIAC amount of \$133,473. The Consumer Advocate "recalculated the CIAC and the unamortized CIAC beginning with the December 31, 2006 reflected in [the] Stipulation of Settlement Agreement in Lieu of Rebuttal Testimonies filed April 4, 2007 in Docket No. 2006-0442"

⁵⁰Id.

⁵¹Id. at 35.

since the amount in HBWC's response to CA-IR-8 "exceeded the CIAC balance at December 31, 2008" as shown in HBWC's exhibit (i.e., Exhibit HBWC 9.7).⁵²

During settlement discussions, HBWC agreed: (1) that many of the CIAC payments it collected were incorrectly classified as revenue; (2) to change its accounting procedures to correctly reflect CIAC payments as part of the CIAC account; and (3) to accept the Consumer Advocate's adjustment to its CIAC balance. As a result, the Parties stipulated to an average Test Year CIAC amount of \$133,473, which is a deduction from the Test Year average rate base.⁵³ The commission finds this Test Year stipulated amount to be reasonable.

6.

Working Cash

Working cash represents the amount of funds provided by shareholders over and above the investment in plant and other specific rate base items to allow HBWC to meet current obligations incurred in providing service pending the receipt of revenues from those services. HBWC computes working cash through the 1/12 methodology, which "assumes that a company needs approximately one-month's worth of expenses (less non-cash expenses) to account for the lag between when expenses are to be paid and when revenues are to be collected."⁵⁴

⁵²See Consumer Advocate's Direct Testimony at 30.

⁵³See Stipulation at 36-37.

⁵⁴Id. at 37.

Through use of the 1/12 methodology, HBWC proposed in its Application an average Test Year amount of \$48,719 for working cash. While the Consumer Advocate agreed with the use of the 1/12 methodology to calculate working cash it recommended an adjustment to this amount to reflect its proposed operating expense adjustments.⁵⁵ According to the Parties, the differences between their working cash amounts were due "solely" to their differing operating expense projections. Based on the Parties' agreements on Test Year operating expense projections, as noted above, the Parties also agree to an average Test Year working cash amount of \$46,072, which is an addition to the Test Year average rate base.⁵⁶ The commission accepts as reasonable this stipulated amount for the Test Year.

E.

Rate of Return

Rate of return, also known as the return on rate base or overall weighted cost of capital, is derived from the ratio of debt to equity (i.e. capital structure) and the cost rates for the debt and equity. In prior proceedings, the commission, with respect to rate of return, acknowledged the Hawaii Supreme Court's statements in In re Hawaii Elec. Light Co., Inc., 60 Haw. 625, 594 P.2d 612 (1979) ("In re HELCO") that:

Questions concerning a fair rate of return are particularly vexing as the reasonableness of rates is not determined by a fixed formula but is a fact

⁵⁵See Consumer Advocate's Direct Testimony at 32-33.

⁵⁶See Stipulation at 37-38.

question requiring the exercise of sound discretion by the Commission. It is often recognized that the ratemaking function involves the making of "pragmatic" adjustments and there is no single correct rate of return but that there is a "zone of reasonableness" within which the commission may exercise its judgment.⁵⁷

In its Application, HBWC initially proposed a rate of return of 9.0%. HBWC's rate of return proposal was based on a hypothetical capital structure consisting of 50.0% debt and 50.0% equity, and cost rates of 7.0% and 11.0% for debt and equity, respectively.

The Consumer Advocate, in its Direct Testimony, states that "[g]iven the current economic conditions and other market related observations . . . [HBWC's] requested cost of capital is not reasonable."⁵⁸ According to the Consumer Advocate, the cost of capital authorized must balance a number of factors including the potential impact on HBWC's ratepayers. Thus, the Consumer Advocate initially recommended that the commission adopt a rate of return of 8.1%. This recommendation is based on analysis provided by the Consumer Advocate's cost of capital witness, Mr. Parcell, in Docket No. 2008-0283 (the KRWC Proceeding). The analysis provided by Mr. Parcell was based on a group of "proxy" companies to determine the cost of common equity since, "it is not possible to apply a direct comparison to such companies as HBWC and KRWC as these companies are not

⁵⁷See In re KRWC Corporation, dba Kohala Ranch Water Company, Proposed Decision and Order, filed on May 12, 2009 ("KRWC Proceeding") at 37 (citing to In re HELCO); emphasis omitted).

⁵⁸See Consumer Advocate's Direct Testimony at 35.

publicly-traded."⁵⁹ In addition, the Consumer Advocate asserts that rate of return should reflect "normal" conditions under which the utility should operate, and notes that HBWC's current negative equity does not reflect such conditions.

During settlement discussions, HBWC disagreed with the Consumer Advocate's 8.1% rate of return recommendation. As set forth in the Parties' Stipulation, HBWC argued:

First, the exact conditions and factors that supported the use of 8.10% for that particular water utility in Docket No. 2008-0283 may not be entirely applicable to Applicant's situation. Second, based on Applicant's independent and preliminary analysis, Applicant contended that smaller water utilities such as HBWC require higher rates of return when compared to large public[ly] traded water utilities used by the Consumer Advocate's cost of capital witness in Docket No. 2008-0283. In addition, Applicant stated its position that, in general, it faces higher risks than other small water utility companies in Hawaii and is struggling against adverse circumstances in that it is a stand-alone company owned and operated by two individuals who are unable to borrow funds without providing personal guarantees and who are unable to rely on affiliates to help support its operations. In support of this representation, Applicant noted that for the past 4 years, it has had ongoing cash flow problems and has operated at a loss, such that its owners have been forced to borrow funds from family members to continue operations. Applicant maintained, therefore, that it was imperative that it be allowed to earn a fair rate of return sufficient to cover the capital costs of operation and to assure confidence in the company's financial integrity.

During settlement discussions, HBWC proposed to utilize a return on rate base of 8.55%, a rate between the 9.0% and 8.1% proposed by HBWC and the Consumer Advocate, respectively. After further discussions, the Consumer Advocate, due to HBWC's

⁵⁹Id.

small size, agreed to increase its rate of return recommendation to 8.3%, which for settlement purposes HBWC later accepted. The Parties' stipulated rate of return of 8.3% is based on the "50% equity/50% debt capital structure with a cost of debt of 7.00% and a cost of equity of 9.6% and was within the range proposed by the Consumer Advocate."⁶⁰

Upon review, the commission finds the Parties' stipulated 8.3% rate of return to be fair. This agreed-upon rate is 70 basis points less than HBWC's current authorized rate of return of 9.0%. In addition, the commission finds that the Parties' stipulated rate of return is within the range of reasonableness discussed by the Hawaii Supreme Court in In re HELCO; see above. Thus, the commission approves as fair the Parties' stipulated rate of return of 8.3%.

F.

Rate Design

To assist in developing an appropriate rate design, HBWC commissioned a cost of service study which it discussed in its Application. HBWC asserts that the results of the cost of service study support its initial opinion that HBWC's low usage customers were subsidizing its higher usage customers, including those with suspected leaks on their property. In an effort to resolve this subsidy issue, HBWC proposed a rate design in its Application comprised of a fixed monthly Water Service Charge of \$30.00, plus a volumetric monthly Water Usage Charge of

⁶⁰See Stipulation at 40.

\$5.7818 per TGs of water used per month. HBWC states that under its proposed rate design, approximately 30-35% of all of its customers using less than 3,100 gallons per month would receive a decrease in their monthly water bill, eliminating the subsidization by these customers of larger water users and customers who have not repaired suspected leaks on their service lines. In addition, according to HBWC, customers using up to 7,100 gallons per month (i.e., over 630 out of 1,100 customers) would have monthly bills at proposed rates at or below the overall system increase of 48.6%.

The Consumer Advocate, in its Direct Testimony, did not propose any adjustments to HBWC's rate design aside from those adjustments related to revenue requirement. Nonetheless, the Consumer Advocate noted its concern that the "costs to many customers will increase substantially (e.g., 108.8% to 384.5% by customers using greater than 10,001 gallons per month based on [HBWC's] proposed rates)."⁶¹ The Consumer Advocate states, however, that it does not believe that any significant adjustments can be made to the revenue requirement element to cause a considerable decrease in rates. While it was unable to complete its review on establishing tiered volumetric rates due to workload issues, the Consumer Advocate recommends that the Parties "continue to review whether tiered volumetric rates are reasonable and if so, the rates for these tiers."⁶² In addition,

⁶¹See Consumer Advocate's Direct Testimony at 37.

⁶²Id. at 39.

the Consumer Advocate noted that a phase-in of the increases over a reasonable number of steps should be considered.

During settlement negotiations, HBWC argued that tiered rates or a phase-in of the rates was not appropriate under the circumstances. Specifically, HBWC asserted that: (1) it would be unfair to HBWC to delay the "much needed" revenue increase which was contemplated during the prior rate case proceeding three years ago and was the result of actions taken by HBWC due to that case; (2) "this case will result in the initial establishment of usage rates and represent a significant increase to the higher users, implementing usage rates in and of itself will promote conservation and reduce customer usage prospectively"⁶³; and (3) all of its customers have been notified of and are "fully aware" that the rates will be increased and include a volumetric rate structure. Furthermore, HBWC contended that "any rate increase phase-in would deny low usage customers who would receive a decrease in their monthly water bill from a portion of this decrease during the phase-in period."⁶⁴ The Consumer Advocate agreed: (1) to withhold a determination of the issue of tiered rates in this proceeding, and (2) that a phase-in was not appropriate in this case, for settlement purposes.⁶⁵ Based on stipulated adjustments to the Test Year revenue requirement (which resulted in different rates than those

⁶³See Stipulation at 42.

⁶⁴Id. at 43.

⁶⁵Id.

proposed by HBWC in its Application) the Parties stipulated to the following rate design for HBWC's operations:

Monthly Meter Charges

Residential (Single Family and Condominiums)	Present Rate	Proposed Rates
Fixed Monthly Service Charge (per unit)	\$48.06	\$30.00
Monthly Water Consumption Charge (per 1,000 gallons of water used per month)		\$4.2237

Upon review, the commission finds the Parties' proposed rate design that includes a fixed Monthly Water Service Charge along with a volumetric charge (i.e., the Monthly Water Consumption/Usage Charge) to be reasonable, under the circumstances. Aside from promoting water conservation, implementation of such a rate design should address HBWC's subsidy issue wherein low usage customers currently appear to be subsidizing higher usage customers. In addition, the rate design stipulated to by the Parties is consistent with the commission's order in HBWC's prior rate case proceeding (i.e., Docket No. 2006-0442) and the overall rates appear to be reasonable given the Parties' agreement on revenue requirement for the Test Year and our determination to accept the Parties' agreement, as set forth above. However, the commission disagrees with and rejects the Parties' agreement that a phase-in of the rate increase is not appropriate, in this case.

As the Consumer Advocate initially stated in its Direct Testimony, if all of its recommendations were adopted, "the overall impact on rates for each customer will approximate 33% - 34%."⁶⁶ Given that the Parties ultimately stipulated to a higher revenue requirement than was initially proposed by the Consumer Advocate (\$230,496⁶⁷ as opposed to \$215,964,⁶⁸ respectively), the overall impact on ratepayers is higher than initially projected by the Consumer Advocate. The commission finds this overall impact on ratepayers to be significant, and under the circumstances, inappropriate. As initially noted by the Consumer Advocate, cost to some ratepayers (i.e., those with usage greater than 10,001 gallons per month) is expected to increase significantly. While the commission is aware of HBWC's arguments against a phase-in of its increase in rates as set forth in the Stipulation, the commission believes that a phase-in of the increase in rates is needed in this case. Accordingly, the commission approves the Parties' stipulation regarding rate design, with the modification set forth below:

⁶⁶See Consumer Advocate's Direct Testimony at 40.

⁶⁷See Stipulation, Exhibit HBWC-A at 1.

⁶⁸See Consumer Advocate's Direct Testimony, CA-101.

Residential (Single Family and Condominiums)	Present Rate	Phase-1 Rates (effective upon PUC Approval)	Phase-2 Rates (effective 6-months after Implementation of Phase-1 Rates)
Monthly Water Service Charge (per unit)	\$48.06	\$30.00	\$30.00
Monthly Water Usage Charge (per 1,000 gallons of water used per month)		\$3.000	\$4.2237

The rate design set forth above, which phases-in the Parties' agreed-upon volumetric rate in two stages, balances the interests of ratepayers, overall, and that of HBWC. The six-month lag in the full implementation of the volumetric rate, as stipulated to by the Parties, should not significantly impact HBWC in the long-term and should be sufficient to cover its projected operating losses at present rates as HBWC initially identified in its Application.⁶⁹ However, this lag will be important to ratepayers since it will allow them the opportunity to adjust, as necessary, to the imposition of a volumetric rate, in real time.⁷⁰

In addition, the commission accepts the Parties' decision not to pursue tiered rates in this proceeding. However, tiered rates may be appropriate and necessary in the future to provide further incentives to customers to conserve. Thus, HBWC

⁶⁹See Application at 5.

⁷⁰The commission is aware that HBWC had been providing its customers with monthly water usage data on bills for much of the prior year. However, projected or estimated amounts cannot compare to actual usage and the resulting billed amounts.

shall include a discussion and sufficient justification for or against the establishment of tiered rates in its next rate case proceeding.

In sum, the commission approves the Parties' stipulation on rate design, with a two stage phase-in of the volumetric rate as set forth above. In so doing, the commission rejects the Parties' agreement that a phase-in of HBWC's increase in rates is not appropriate. Further, in its next rate case proceeding, HBWC shall include a discussion and sufficient justification for or against establishing tiered rates.

G.

Other Matters

1.

Non-Recurring Charge Increase

As set forth in its proposed rate schedule in its Application, HBWC is proposing to increase its Involuntary Disconnect and Reconnection Charge, a non-recurring charge, from \$60.00 per instance to \$90.00 per instance.⁷¹ According to HBWC, this charge is applied in each instance where a customer's service has been disconnected for non-payment or other violation of HBWC's rules and regulations. While HBWC included this proposal in its exhibits, HBWC failed to provide a discussion of this increase or any justification for it. In addition, the Consumer Advocate did not provide any comments on this proposed

⁷¹See Application, Exhibits HBWC 4 and HBWC 5.

non-recurring charge nor did the Parties refer to or provided any discussion on it in their Stipulation.

Based on the above, the commission finds that HBWC failed to satisfy its burden in demonstrating that the proposed increase in HBWC's Involuntary Disconnect and Reconnection Charge from \$60.00 per instance to \$90.00 per instance is reasonable.

2.

Quarterly Reports

The Consumer Advocate, in its Direct Testimony, recommended that HBWC file quarterly financial reports and actual customer usage data. According to the Consumer Advocate, such information will allow the commission and the Consumer Advocate to be prepared for HBWC's next filing and be useful to determine whether prior action is necessary. As set forth in the Stipulation, HBWC "accepted" the Consumer Advocate's recommendation and agreed to file: (a) updated monthly customer usage data, and (b) quarterly financial reports on its operations with the commission and Consumer Advocate ("Quarterly Reports").

The commission agrees that financial and usage information, as contemplated by the Parties, would be beneficial in the commission's review of HBWC's next rate case and in the commission's general "supervisory" duties over HBWC. Accordingly, the commission finds the filing of the Quarterly Reports to be appropriate. The first quarterly report shall be filed with the commission and Consumer Advocate by April 30, 2010, and each subsequent quarterly report shall be

filed no later than three months thereafter, until ordered otherwise by the commission.

3.

Conversion Cost Information

The Consumer Advocate recommends that HBWC "provide the costs associated with improving its water system that would facilitate the possibility of allowing the County to be responsible for the system[,]"⁷² but does not recommend County of Hawaii ("County") involvement in the system at this time. According to the Consumer Advocate, this information will allow the commission and the Consumer Advocate to assess whether it is in the best interest of ratepayers to have the County be responsible for the water system. In the Stipulation, the Parties noted the Consumer Advocate's concerns and its determination not to require County involvement, at this time. However, there was no mention in the Stipulation about the Consumer Advocate's recommendation that HBWC should file cost information on improving the system to facilitate the County being responsible for the water system ("Conversion Cost Information").

At this time, the commission finds reasonable the Consumer Advocate's recommendation that HBWC submit Conversion Cost Information. As the Consumer Advocate noted, given that HBWC anticipates that customers will lower their usage, there is a concern that in HBWC's next rate proceeding, "there will be

⁷²See Consumer Advocate's Direct Testimony at 38.

less water sales in which to distribute the revenue requirement, causing the rates to increase further."⁷³ The commission shares this concern. Thus, the commission requires HBWC to file Conversion Cost Information in its next rate case proceeding.

4.

Automatic Power Cost Adjustment Clause ("APCAC")

HBWC currently has an authorized APCAC which allows HBWC to increase or decrease the rate it charges customers for water service based on any corresponding increase or decrease in the electricity cost it is charged. In its Application, HBWC states that it is not proposing to revise its basic APCAC calculation. Nonetheless, HBWC states that "monthly calculation will now reflect the use of the meter water usage as the base for the calculation replacing the use of estimated pumping data."⁷⁴ According to HBWC, this existing procedure is necessary due to HBWC's existing flat rate charge and since the flat rate charge is being replaced with a monthly customer charge and volumetric charge, the use of billed water usage is consistent with a volumetric charge.

Given the commission's approval of a rate design that encompasses both a fixed and volumetric charge, the necessary procedural change, as contemplated by HBWC, is reasonable. The revised tariff (which includes rate schedules) to be filed by HBWC in this proceeding should reflect this change. In addition,

⁷³Id.

⁷⁴See Application, Exhibit HBWC-T-100 at 51.

the commission notes that the following typographical error should be corrected: The wording in the last sentence of the APCAC should be revised from "customers, bills monthly" to "customers' monthly bills."

III.

Ultimate Findings and Conclusions

Overall, the commission finds that the Parties' Stipulation balances divergent interests and views to achieve a resolution of the various issues of this rate proceeding, which the commission finds, under the circumstances, to be reasonable. In particular, the commission finds and concludes the following:

1. The rates and charges, as stipulated to by the Parties, are just and reasonable.

2. The operating revenue and expenses for the Test Year, stipulated to by the Parties and as set forth in Exhibit A, attached, are reasonable.

3. The Parties' stipulated Test Year average depreciated rate base of \$1,333,595 is reasonable.

4. The Parties' stipulated rate of return for the Test Year of 8.3% is fair.

5. As stipulated to by the Parties, HBWC is entitled to an increase in revenues of \$230,496, or approximately 36.065%, over revenues at present rates, and total operating revenues of \$869,616 for the Test Year.

6. With regards to rate design, the Parties' stipulation to incorporate a monthly volumetric consumption charge along with a fixed service charge is reasonable. However, the commission rejects the Parties' agreement that a phase-in of the increase in rates is inappropriate and determines that the volumetric rate stipulated to by the parties should be phased-in and implemented in two stages. The appropriate rate design approved by this commission for this docket is set forth in Section II.F.

7. HBWC's proposal to increase its Involuntary Disconnect and Reconnection Charge from \$60.00 per instance to \$90.00 per instance is unreasonable and is denied.

8. HBWC shall file Quarterly Reports, as discussed in Section II.G.2 of this Proposed Decision and Order.

9. In its next rate case proceeding, HBWC shall include a discussion considering tiered rates as discussed in Section II.F and provide Conversion Cost Information as discussed in Section II.G.3 of this Proposed Decision and Order.

10. The procedural change noted by HBWC with respect to its APCAC as discussed in Section II.G.4 of this Proposed Decision and Order shall be reflected in its proposed tariff (which includes HBWC's rate schedules) to be filed in this proceeding.

IV.

Acceptance or Non-Acceptance

Consistent with HRS § 269-16(f)(3), within ten days from the date of this Proposed Decision and Order, each of the Parties shall notify the commission as to whether it:⁷⁵

1. Accepts, in toto, the Proposed Decision and Order. If the Parties accept the Proposed Decision and Order, they "shall not be entitled to a contested case hearing, and [HRS] section 269-15.5 shall not apply."⁷⁶

2. Does not accept, in whole or in part, the Proposed Decision and Order. If so, said party shall give notice of its objection or non-acceptance and set forth the basis for its objection or non-acceptance.⁷⁷ Moreover, the party's objection or non-acceptance shall be based on the evidence and information contained in the current docket record, i.e., the materials available to the commission at the time of its issuance of the Proposed Decision and Order.

Any party that does not accept the Proposed Decision and Order "shall be entitled to a contested case hearing; provided that the parties to the proceeding may waive the contested case hearing."⁷⁸ The commission shall make every effort

⁷⁵This deadline date is consistent with the deadline to move for reconsideration of a commission decision or order. HAR § 6-61-137.

⁷⁶HRS § 269-16(f)(3).

⁷⁷Id.

⁷⁸Id.

to complete its deliberations and issue its Decision and Order by April 17, 2010.

The underlying purpose of HRS § 269-16(f) is to expedite the ratemaking process for public utilities with annual gross revenues of less than \$2 million. Consistent thereto, the commission has completed its review and timely issues this Proposed Decision and Order. Nonetheless, the commission makes it clear that if it is required to issue a Decision and Order due to the non-acceptance of the Proposed Decision and Order by one or both of the Parties, the commission is free to review anew the entire docket and all issues therein.

V.

Orders

THE COMMISSION ORDERS:

1. The Parties' Stipulation, filed on November 23, 2009, is approved in part and rejected in part, as discussed herein.

2. HBWC may increase its rates to produce additional revenues of \$230,496, or approximately 36.065%, over revenues at present rates, as shown on Exhibit A, attached, representing an increase in HBWC's revenue requirement to \$869,616 for the Test Year based on a stipulated 8.3% rate of return on HBWC's stipulated average rate base for the Test Year.

3. HBWC shall promptly file revised tariff sheets (which includes its rate schedules) for the commission's review and approval, consistent with the commission's decisions set

forth in this Proposed Decision and Order, with copies served upon the Consumer Advocate. HBWC's revised tariff sheets shall take effect upon the commission's approval of said filings.

4. Within ten days from the date of this Proposed Decision and Order, each of the Parties shall notify the commission as to whether it accepts, in toto, or does not accept, in whole or in part, this Proposed Decision and Order, consistent with Section IV, above. A party's objection or non-acceptance shall be based on the evidence and information contained in the current docket record.

5. HBWC shall file Quarterly Reports, as discussed in Section II.G.2 of this Proposed Decision and Order.

6. In its next rate case proceeding, HBWC shall include a discussion considering tiered rates as discussed in Section II.F and provide Conversion Cost Information as discussed in Section II.G.3 of this Proposed Decision and Order.

7. The procedural change noted by HBWC with respect to its APCAC as discussed in Section II.G.4 of this Proposed Decision and Order shall be reflected in its proposed tariff (which includes HBWC's rate schedules) to be filed in this proceeding.

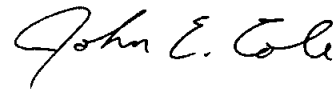
8. The failure to comply with any of the requirements noted in the ordering paragraphs above, may constitute cause to void this Proposed Decision and Order, and may result in further regulatory action as authorized by the laws of the State of Hawaii.


DONE at Honolulu, Hawaii

JAN 14 2010

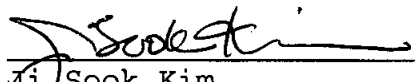
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

2009-0161.sl

DOCKET NO. 2009-0161
HAWAIIAN BEACHES WATER COMPANY
REVENUE REQUIREMENTS
TEST YEAR ENDED DECEMBER 31, 2010

	Present Rates	Additional Amount	Proposed Rates
REVENUES			
Flat Rate Month Charges	\$ 636,120	\$ (636,120)	\$ -
Monthly Customer Charges		397,080	397,080
Customer Usage Charges		469,536	469,536
Other Revenue	3,000	-	3,000
Total Operating Revenues	<u>\$ 639,120</u>	<u>\$ 230,496</u>	<u>\$ 869,616</u>
OPERATING & MAINT. EXPENSES			
Purchased Electricity	\$ 104,400		\$ 104,400
Salaries and Wages	222,477		222,477
Employee Benefits & PR Taxes	57,377		57,377
Accounting	14,000		14,000
Insurance	31,604		31,604
Auto & Truck Expense	15,000		15,000
Postage	6,000		6,000
Legal & Professional	2,000		2,000
Communications	6,400		6,400
Office Supplies Expense	23,400		23,400
Rate Case Amortization	69,800		69,800
Repairs and Maintenance	4,400		4,400
Bad Debt Expense	-		-
Capitalized Non-Payroll Expense	(4,000)		(4,000)
Total O & M Expenses	<u>\$ 552,858</u>	<u>-</u>	<u>\$ 552,858</u>
Taxes Other than Income Taxes	\$ 40,808	\$ 14,717	\$ 55,525
Depreciation	110,623	-	110,623
Amortization of CIAC	(12,573)	-	(12,573)
Income Taxes	-	52,500	52,500
Net Operating Expense	<u>\$ 138,858</u>	<u>\$ 67,217</u>	<u>\$ 206,075</u>
Net Operating Income (Loss)	<u>\$ (52,596)</u>	<u>\$ 163,279</u>	<u>\$ 110,683</u>
Average Rate Base	<u>\$ 1,333,595</u>		<u>\$ 1,333,595</u>
Return on Rate Base	<u>-3.94%</u>		<u>8.30%</u>

**DOCKET NO. 2009-0161
HAWAIIAN BEACHES WATER COMPANY
TAXES OTHER THAN INCOME TAXES
TEST YEAR ENDED DECEMBER 31, 2010**

	<u>Tax Rates</u>	<u>Present Rates</u>	<u>Adjustments</u>	<u>Proposed Rates</u>
Total Operating Revenues		<u>\$ 639,120</u>	<u>\$ 230,496</u>	<u>\$ 869,616</u>
Public Company Service Tax	5.885%	37,612	13,565	51,177
Public Utility Fee	0.500%	<u>3,196</u>	<u>1,152</u>	<u>4,348</u>
Total Revenue Taxes	6.385%	<u>\$ 40,808</u>	<u>\$ 14,717</u>	<u>\$ 55,525</u>

DOCKET NO. 2009-0161
HAWAIIAN BEACHES WATER COMPANY
INCOME TAXES
TEST YEAR ENDED DECEMBER 31, 2010

			Present Rates	Proposed Rates
REVENUES				
Monthly Meter Charge			\$ 636,120	\$ -
Potable Water Usage			-	397,080
Non-Potable Water Usage			-	469,536
Finance Charge & Other			3,000	3,000
Total Operating Revenues			<u>639,120</u>	<u>869,616</u>
OPERATING & MAINT. EXPENSES				
Purchased Electricity			104,400	104,400
Salaries and Wages			222,477	222,477
Employee Benefits & PR Taxes			57,377	57,377
Accounting			14,000	14,000
Insurance			31,604	31,604
Auto & Truck Expense			15,000	15,000
Postage			6,000	6,000
Legal & Professional			2,000	2,000
Communications			6,400	6,400
Office Supplies Expense			23,400	23,400
Rate Case Amortization			69,800	69,800
Repair & Maintenance			4,400	4,400
Bad Debt Expense			-	-
Capitalized Non-Payroll Expense			(4,000)	(4,000)
Total O & M Expenses			<u>552,858</u>	<u>552,858</u>
Taxes Other than Income Taxes			40,808	55,525
Depreciation			110,623	110,623
Amortization of CIAC			(12,573)	(12,573)
Total Operating Expense			<u>691,716</u>	<u>706,433</u>
State Taxable Income			\$ (52,596)	\$ 163,183
		Taxable Amounts		
		Present Proposed		
		Rates Rates		
State Income Tax				
less than \$25K	4.4%	\$ -	\$ 25,000	\$ -
Over 25K, but less than 100K	5.4%	-	75,000	\$ 1,100
Over 100K	6.4%	-	63,183	4,050
				<u>4,044</u>
Total State Income Taxes			\$ -	\$ 9,194
Federal Income Tax			\$ (52,596)	\$ 153,989
		Taxable Amounts		
		Present Proposed		
		Rates Rates		
Federal Income Tax				
less than \$50K	15.0%	\$ -	\$ 50,000	\$ -
Over 50K, but less than 75K	25.0%	-	25,000	\$ 7,500
Over 75K, but less than 100K	34.0%	-	25,000	6,250
Over 100K, but less than 335K	39.0%	-	53,989	8,500
Over 335K	34.0%	-	-	21,056
				<u>-</u>
Total Federal Income Taxes			\$ -	\$ 43,306
Total Federal and State Income Taxes			<u>\$ -</u>	<u>\$ 52,500</u>

**DOCKET NO. 2009-0161
HAWAIIAN BEACHES WATER COMPANY
AVERAGE RATE BASE
TEST YEAR ENDED DECEMBER 31, 2010**

Description	At 12/31/2009	At 12/31/2010	Average
Plant in Service	\$ 1,873,715	\$ 1,915,978	
Accum. Depreciation	(337,956)	(448,579)	
Net-Plant-in-Service	<u>1,535,759</u>	<u>1,467,399</u>	<u>\$ 1,501,579</u>
Deduct:			
Accumulated Deferred Income Tax	(20,243)	(22,525)	
HCGETC	(48,616)	(46,857)	
Customer Deposits	(11,462)	(11,462)	
CIAC	<u>(136,760)</u>	<u>(130,187)</u>	
Subtotal	(217,081)	(211,031)	<u>(214,056)</u>
Add:			
Working Cash			<u>46,072</u>
Subtotal			-
Rate Base at Present and Proposed Rates			<u><u>\$ 1,333,595</u></u>

**DOCKET NO. 2009-0161
HAWAIIAN BEACHES WATER COMPANY
WORKING CASH
TEST YEAR ENDED DECEMBER 31, 2010**

Operating Expenses	Amount
Purchased Electricity	\$ 104,400
Salaries and Wages	222,477
Employee Benefits & PR Taxes	57,377
Accounting	14,000
Insurance	31,604
Auto & Truck Expense	15,000
Postage	6,000
Legal & Professional	2,000
Communications	6,400
Office Supplies Expense	23,400
Rate Case Amortization	69,800
Repair & Maintenance	4,400
Bad Deb Expense	-
Capitalized Non-Payroll Expenses	(4,000)
Total O & M	\$ 552,858
Number of months in a year	12
Working Cash	<u>\$ 46,072</u>

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

DEAN NISHINA
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P.O. Box 541
Honolulu, HI 96809

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